

STEVEN G. KALAR
Federal Public Defender
Northern District of California
GEOFFREY A. HANSEN
Chief Assistant Federal Public Defender
19th Floor Federal Building - Box 36106
450 Golden Gate Avenue
San Francisco, CA 94102
Telephone: (415) 436-7700
Facsimile: (415) 436-7706
Email: Geoffrey_Hansen@fd.org

Counsel for Defendant RODRIGUEZ

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

OLMAN OLFINO RODRIGUEZ,

Defendant.

Case No.: CR 19–659 WHA

**DEFENDANT'S SENTENCING
MEMORANDUM**

Court: Courtroom 12, 19th Floor
Hearing Date: April 28, 2020
Hearing Time: 9:00 a.m.

1 The defendant Olman Rodriguez stands before the Court to be sentenced for selling \$20 worth
2 of cocaine base to an undercover police officer in the Tenderloin of San Francisco. The Probation
3 Officer has recommended that the Court sentence Mr. Rodriguez to a sentence of one year and a day.
4 For the reasons set forth below, Mr. Rodriguez asks the Court to sentence him to a sentence of time
5 served.

6 Mr. Rodriguez is a 21 year-old Honduran national who came to this country by himself
7 approximately six years ago, when he was 15 years old. He had been forced to drop out of school in
8 the sixth grade, and as a result started working in the fields to help his parents support his huge family.
9 Because of the violence and poverty plaguing Honduras, he decided to leave to come to the United
10 States because he had heard that jobs were plentiful and that he could make money to support himself
11 and his family.

12 As this Court is certainly aware, the reality of life in this country for uneducated, non-English
13 speaking immigrants is anything but easy. Mr. Rodriguez decided to settle in the Bay Area because he
14 had a brother here. Unfortunately, jobs were simply not available and Mr. Rodriguez struggled to get
15 by. Again, as is so often the case, Mr. Rodriguez started using drugs, and from there his life spiraled
16 downward. Not having a source of income to support his drug habit, Mr. Rodriguez began selling
17 small amounts of drugs. Specifically, he would be given a small amount of various drugs each day to
18 sell for the dealer. In exchange, he was usually paid around \$50 a day from the proceeds of the sales
19 and would get some help with housing. Mr. Rodriguez was twice convicted for these minor sales, but
20 each time discovered that he could not make a living unless he continued to sell drugs, and he returned
21 to the practice.

22 This Court knows that scores of similarly situated defendants have been brought into federal
23 court to be sentenced for selling small amounts of drugs in the Tenderloin. The vast majority of those
24 defendants have been sentenced to “time served” sentences or relatively short jail sentences, in
25 recognition of the fact that the amount of drugs is small, the defendants are not big dealers, and that
26 regardless of the punishment imposed the defendant will be deported after he has served his sentence.

27 In addition, with the advent of COVID-19, the prolonged incarceration of small drug dealers
28 poses an unacceptable risk to these defendants considering the nature of the crime they have

1 committed.

2 Considering those same factors in this case, the defendant respectfully asks for a sentence of
3 time served. He has been in custody since December, and thus has served close to five months
4 already. This has been particularly difficult for inmates of late, as the COVID-19 cases have increased
5 in Santa Rita jail, and the inmates live in constant fear that they will contract the disease. If the Court
6 were to accept the recommendation of the Probation Officer, Mr. Rodriguez would have to serve
7 approximately four more months in Santa Rita jail. This would not only seem to be an unnecessary
8 use of Government funds, but it would create a risk for Mr. Rodriguez that hardly seems
9 commensurate with the crime he has committed.

10 In short, a time served sentence would be adequate in this case. Times have changed, and the
11 factors bearing on what constitutes a fair sentence are now very different. It is important to remember
12 that Mr. Rodriguez has been incarcerated during a very frightening time for the inmate population, and
13 will be deported to Honduras the moment he is released.

14 For these reasons, he asks for a sentence of time served.

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16 Dated: April 21, 2020

Respectfully submitted,

17 STEVEN G. KALAR
18 Federal Public Defender
Northern District of California

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20 _____
GEOFFREY A. HANSEN
Chief Assistant Federal Public Defender